G.R.S. IX-5]

Previous references.

File No. 27-22

1922.
(G7)

Serial Nos. 2

Later references.

Preserve
3.11.23

GENERAL AND REVENUE SECRETARIAT.

F 13-2

Serial Nos. 1

Part B for Dec 1922

SUBJECT

Form of document to be executed by donors of Charitable Endowments.

F 2543-53 d 8-12-1922
The Corporation of Ontario Hds of Depts
~~Revise~~ Amends the preamble of the
Letters of agreement referred to in
F 432-72 G7-15 09-1 d 15-7-1909

By 10/1/23

Fl. U. O./22b 21

FINANCIAL SECRETARIAT NOTES.

1. Subject: Revision of the form of Agreement Executed by the President M. Lingayet Education Fund Association in connection with their Advance Grant of 1,00 000. File No. of 19

2. Points for opinion. Extract from Council resolution d: 29.11.21 on higher rate of interest on the mysore Lingayat Education Fund.

The higher rate of interest viz 6% may be sanctioned in this case

Note: The form of agreement should be revised in consultation with Govt advocate.

3. Extra cost involved:-

(a) Recurring.

(b) Non-recurring.

(c) During current year.

(d) In future years.

4. Whether the procedure laid down in the Financial Settlement order has been followed.

5. Opinion of the Comptroller, if any, recorded.

6. Opinions by highest authority in administrative branch who has noted on the case.

Please make a brief of points of the Case & refer the Case to him with the Precis for suggesting amendments in the form of agreement

Sd/- 20.12.21.

Subd)

The copy of agreement which requires revision is flagged ~~1~~. ~~For~~ merely a rate of 4% per annum or such other rate as shall exceed by ½% the rate of interest allowed by the Govt of India on their securities is allowed. This portion of agreement marked in pencil has to be revised in view of recent orders sanctioning a rate of 6% in the case also.

The Govt advocate may perhaps be consulted in the first instance.

Subd 16/12/21 16.12.

H. Singh 16/12

G. R. S. III-2]

General and Revenue Secretariat. | Edn File No. 228 of 1920.

Serial No.

~~The facts of the case are briefly as follows:-~~

The points on which the opinion of the Govt Advocate is wanted is about the amendment of the form of agreement ~~executed~~ executed by the President Lingayat Education fund association in connection with the Endowment deposit of Rupees 100000 accepted under G.O. No 3568 -72 Edn 2-08-2 dated 14th October 1908. as the interest now allowed on the Endowment is 6% (vide order No 2088-4 Edn 228-20 dated 29.4.21) instead of 4% as in the order of acceptance of the endowment.

The form of agreement which is in use is that flagged E. and the portion which requires modification is ~~the portion~~ para 2 in the preamble to the agreement commencing with

"And whereas the said Govt have agreed to pay on the said deposit interest payable half yearly at four per centum per annum or at such other rate as shall exceed by ½% the rate of interest allowed by the Govt of India on their securities &c.

This above portion of the agreement has to undergo modification as the interest

Serial No.

1226-21 Fl.

now allowed is 6%. in ~~some cases~~ special cases. This case
If it is intended to modify the general
order so as to cover all special cases
where 6% interest is allowed. the form
may ~~read perhaps~~ be altered as follows.
"And whereas the said Govt have agreed to
pay on the said deposit interest payable
½ yearly at ~~four~~ per centum per annum or at
such other rate as shall exceed by ½ %
the rate of interest allowed by the Govt of India
on at 6% which ever ~~is regarded~~ deemed
~~just & equitable~~ necessary according to
the ~~merits~~ circumstances of the case.

Subject matter 5/21 6

To bring the clauses the agreement
into Conformity with Rule 11 of the
revised Rules of 1909, it ~~has to be~~ to be
be modified as under:-
"and whereas the said Govt
"have agreed to pay on the said
"deposit interest payable half-
"yearly which shall not at any
"time be more than ½ per cent
"in excess of the rate allowed
"by the Govt of India on Fixed
"Securities".

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. File No.. of 19 .

Serial No.

But it is a question for orders whether what is intended to be a principle for adoption in accepting such deposits should be reproduced as a clause in an agreement. When such deposit is accepted the rate of interest to be allowed on it has to be fixed by Govt with reference to the prevailing rate of interest at the time and if that rate is agreed to by the depositor, it is ~~only~~ that fixed rate alone which has to be inserted in the agreement ~~and not~~. The incorporation of General terms as suggested above in accordance with the wording of the Rules in the matter would appear distinct from the value of the clause as a specific point of agreement.

13/9/22

17.8 Sept. H Srey

The agreement to be amended acc to the Council Resolution is that executed by the Linguyat Association and action in this matter has to be taken in the Education Secty. I do not see any reason to amendment of the general form of agreement for charitable endowments

23/9/22

Fd 1226-21

D 1632

NOTE—Contn. sheet.

85/12/IX

G. R. S. III-2]

General and Revenue Secretariat.

File No. of 19

Serial No.

~~What has to be amended~~
~~is the standard form prescribed~~
~~by the Financial Secretariat~~

The Education Branch seems to have nothing more to do with the matter. This was once pointed out already to the Financial Secretariat

Ked
27/3

Chief Secy)

The revision of the form of agreements referred to in the note of Committee instructions of 29-11-21 has reference to the passage marked A at p. 20 of the note on the main file.

This ~~which is the~~ form is applicable to all kinds of Institutions, religious & charitable as well as educational. The form was prescribed when first sent & its amendment may be kept pending until such time as

Trustees)

4/3

NOTE—Contn. sheet

D 13246

b

G. R. S. III-2]

General and Revenue Secretariat.

File No. of 19 .

Serial No.

HC 79

Portion marked in red ink

The ~~modification~~ form of agreement proposed to be modified is that flagged E. as it is not in quite conformity with the order of court dated 15th July 1909 : (vide flag V. portion at A.)

The court advocate will if approved be consulted in the 1st instance as per D.S.R. on page 27

(Sd) Attention is invited to the point raised in my note of 13-1-22 above

Secy. 17.10.22.

(Sd) Illegible

Noted by Govt.

E

V

attended to note 16 on 22.

Page 244 of the Notes in the main file below

V portion in red ink

1. The form of agreement required in regard to charitable endowments and prescribed by Government order No. Fl.432-72/G.F.15-09-1 dated 15th July 1909 was found to be inconsistent, in respect of the condition of the rate of interest, with Government order No. Fl.473-503/G.F.15-09-2 dated 15th July 1909 and action was ordered to be taken for amending it ~~the form of agreement;~~ vide Council Resolution dated 29th November 1921. The Government order lays down the general rule that the rate of interest "shall not at any time be more than half per cent. in excess of the

NOTE—Contn. sheet

G. R. S.-III-2]

Serial No.

the rate allowed by the Government of India on their securities"; while the form of agreement runs thus: "at 4 per cent per annum or at such other rate as shall exceed by half per cent. the rate of interest allowed by the Government of India on their securities". It will be seen that, while the Government order permits half a per cent. more, as the maximum allowable, the agreement makes the rate of half a per cent. more, as a rate alternative to 4 per cent. and entirely overlooks the fact that it is a maximum provision.

2. The conditions in regard to the rate of interest allowed by the Government of India on their securities have radically changed since 1909. The order passed in that year ~~contemplated~~ held the view that the rate of 4 per cent. itself included half a per cent. more than the prevailing rate of 3½ per cent. and the alternative provision of half a per cent. more than the rate of the Government of India was, I believe, really intended as reservation of power for reducing the rate below 4 per cent. in the event of the interest rate on the Government of India securities going below 3½ per cent., a contingency which did not appear improbable in 1909. The situation has ~~now~~ since completely changed. The rate of interest has gone up very high and the Government of India have been raising their

loans

NOTE—Contn. sheet.

Serial No.

loans at different rates and there is accordingly no one uniform rate with reference to which the interest to be allowed upon charitable endowments can be determined. As a matter of fact, though the prevailing rate of interest on Government of India securities is about 6 per cent., we have ~~not~~ allowed only more than 5 per cent on endowment deposits for which no interest rate has been fixed in perpetuity. In view of these considerations I think it is inadvisable to allude to the maximum permissible rate of interest in the form of agreement and I would, in this view, suggest that the preamble in the agreement form referring to the rate of interest may be altered as under:

Present form.	Proposed form.
Whereas the said Government have agreed to pay on the said deposit interest payable half yearly at 4 per centum per annum or at such other rate as shall exceed by half per cent. the rate of interest allowed by the Government of India on their securities.	Whereas the said Government have agreed to pay on the said deposit interest payable half yearly at .... per centum per annum.

3. I have proposed to leave the rate blank and it may be inserted in each agreement according to circumstances and with necessary qualification.

4. Strictly speaking the Government order No. Fl.473-503/G.F.15-09-2 dated 15th July 1909 should also be revised with a view to define as approximately as possible the rate of interest which Government are prepared to allow on charitable endowments. But the

V

Serial No.

the conditions of the money market have been abnormal for the last 8 years and they are likely to continue to be such for some years to come. It is not, therefore, possible to say what is likely to be the normal rate when normality is reached. The ~~general~~ provision in regard to the rate of interest included in the said Government order is very general as it only states that the rate of interest "shall not at any time be more than half per cent. in excess of the rate allowed by the Government of India on their securities". This rule gives enough freedom for allowing such rate of interest as we can afford to give within the Government of India rates. The Government order may therefore be allowed to stand as it is.

5. It is undesirable for another reason to specify any particular rate of interest in the general form of agreement. It is open to donors to request the Government to allow a fixed rate of interest in perpetuity or varying rates according to the conditions of the money market. The rate of 5 per cent. which we allowed during the last 5 years and which we have recently continued for another period of 3 years, applies to cases in which no permanent rate of interest has been guaranteed.

published in Gazette 12.10.22

6. If the amendment of the form of agreement proposed

G. R. S. III-2]

General and Revenue Secretariat.

21095

27. 22

File No. 229 of 1920.

Serial No.

proposed in para 2 above is approved, orders will be issued as in the draft put up. The Government Advocate will of course be consulted as to whether the proposed amendment is in order before the order is issued.

13.10.22.

Dewan

Thangalee Dne

17.10

F.W.Co.Rs-ies

Forwarded with Compliments to the Govt Advocate for favour of opinion

By order

18.10.22

for FE Secretary to Govt

The proposed amendment of the preamble appears to be quite suitable. It reserves ample powers to Government to modify the rate of interest from time to time according to the circumstances of each case, instead of the present rule which is perhaps too hard and fast.

Govt Advocate

FE Secy The draft may be issued 1/11/22

Dewan 21.11.22

FE 1498-22
17-10-22

DEVAN'S OFFICE.
Rcvd. on OCT 16 1922
Reg. No. 2278

L.D. Stg 46/Legs-23
dy 1.11.1922.
GEN. & REV. SECTT
FE
21 NOV 1922

DEVAN'S OFFICE.
On NOV 21 1922
2973

Contn. sheet.

13646/2

G. R. S. III-2]

General and Revenue Secretariat.

97 File No. 27 of 19 22

Serial No. 2

F.O.No. 2543-53 d. 12.12.22 to the Comptr. Engg. Cir. 2/Est. Dte. of D.S. with certain amendments in the form of the agreement. The F.D. file wherein the question of the amendment to the form of agreement was noted may now be returned if approved.

RS 9/12

To the Supdt., Eddn Bo, with Compts. for kindly taking back the Eddn file and returning this.

RLy. 8/12

Returned to Mr. Trial Secd.

LDN 9/12

MD 9/12

B 9/1/23

NOTE—Contn. sheet.

Draft. 12

Proceedings of the Government of His Highness the Maharaja of Mysore.

R e a d.-

G.O.No. Fl.432-72/G.F.15-09-1 dated 15th July 1909 prescribing the form of document to be executed by donors o f charitable endowments under G.O. No. Fl.4007/G.F.184-04 dated 12th February 1908 as modified by Government Notification No.Fl.473-503/G.F.15-09-2 dated 15th July 1909.

Order thereon:- FC 2543-5-3
~~Edn 228-20~~ Ff 27-22-2

No.

Dated, Bangalore, the ~~8 Oct~~ 8 .1922

The preamble of the form of agreement referred to in the Government order read above in so far as it relats to ~~the~~ rate of interest is amended as under:

"And whereas the said Government have agreed to pay on the said deposit interest payable half yearly at .....per cent. per annum".

12.10.22

Financial Secretary to Govt.

To The comptr
The Inspr Genl
The Dy Dir of Edn
The Dy Dir of Stats

Proceedings of the Government of His Highness
the Maharaja of Mysore.

R E A D—

Government Order No. Fl. 432-72/G. F. 15-09-1 dated 15th July 1909 prescribing the form of document to be executed by donors of charitable endowments under Government Order No. Fl. 4007/G. F. 184-04 dated 12th February 1908 as modified by Government Notification - No. Fl. 473-503/G. F. 15-09-2 dated 15th July 1909.

O R D E R NO. ಫೈ 2543-53 ಆಕ್ಟ್-2732-2

Dated Bangalore 5 December 1922.

The preamble of the form of agreement referred to in the Government Order read above, in so far as it relates to rate of interest, is amended as under:

" and whereas the said Government have agreed to pay on the said deposit interest payable half yearly at ....per cent per annum ".

Financial Secretary to Government.

To

The Comptroller to Government.
The Muzrai Commissioner in Mysore.
The Inspector General of Education in Mysore.
The Deputy Commissioners of Districts.

TS.